



County of San Bernardino

F A S

STANDARD CONTRACT

FOR COUNTY USE ONLY

<input checked="" type="checkbox"/> New <input type="checkbox"/> Change <input type="checkbox"/> Cancel	Vendor Code	Dept.	Contract Number	
County Department <b>PURCHASING</b>		Dept.	Orgn.	Contractor's License No.
County Department Contract Representative <b>BETTY ALEXANDER</b>		Telephone <b>387-2509</b>		Total Contract Amount <b>Countywide-unencumbered</b>
Contract Type <input type="checkbox"/> Revenue <input type="checkbox"/> Encumbered <input checked="" type="checkbox"/> Unencumbered <input type="checkbox"/> Other:				
If not encumbered or revenue contract type, provide reason:				
Commodity Code		Contract Start Date 7/1/03	Contract End Date 6/30/06	Original Amount
Fund	Dept.	Organization	Appr.	Obj/Rev Source
				GRC/PROJ/JOB No.
				Amount
Fund	Dept.	Organization	Appr.	Obj/Rev Source
				GRC/PROJ/JOB No.
				Amount
Fund	Dept.	Organization	Appr.	Obj/Rev Source
				GRC/PROJ/JOB No.
				Amount
Project Name		Estimated Payment Total by Fiscal Year		
		FY	Amount	I/D

THIS CONTRACT is entered into in the State of California by and between the County of San Bernardino, hereinafter called the COUNTY, and

Name

Westgroup Designs

Hereinafter  
called

VENDOR

Address

1350 Reynolds Ave., Suite 101

Irvine, CA 92614

Telephone

(949) 250-0880

Federal ID No. or Social Security No.

33-0564931

IT IS HEREBY AGREED AS FOLLOWS:

(Use space below and additional bond sheets. Set forth service to be rendered, amount to be paid, manner of payment, time for performance or completion, determination of satisfactory performance and cause for termination, other terms and conditions, and attach plans, specifications, and addenda, if any.)

This agreement is entered into as of this 24<sup>th</sup> day of June 2003 between Westgroup Designs (VENDOR) and the County of San Bernardino (COUNTY).

RECITALS

WHEREAS, The County of San Bernardino desires to designate vendor of choice to provide interior design and space planning services to all COUNTY departments, AND

WHEREAS, the COUNTY conducted a competitive process to find vendors able to provide the necessary services, AND

WHEREAS, Westgroup Designs has been evaluated by a committee consisting of user departments and by the County Purchasing Department (hereinafter referred to as PURCHASING) and determined to have the necessary skills to provide services under the terms and conditions provided herein,

NOW, THEREFORE, the COUNTY designates Westgroup Designs as the vendor of choice to provide interior design and space planning services as follows:

## **TERM OF AGREEMENT**

The term of this agreement is for three (3) years, beginning July 1, 2003, and ending June 30, 2006, unless terminated earlier as provided in this section.

- A. The COUNTY reserves the right to terminate the entire agreement with a fifteen- (15) day written notice of termination in the event the VENDOR does not perform service in a satisfactory manner.
- B. The COUNTY and the VENDOR each reserve the right to terminate the agreement, for any reason, with a sixty- (60) day written notice of termination. Such termination may include all or part of the services described herein.
- C. The Director of Purchasing for the County of San Bernardino shall have the right to exercise the COUNTY'S authority under this agreement including the right to give notice of termination on behalf of the COUNTY at his sole discretion.

## **SCOPE OF WORK**

### **A. Task Description**

Services shall include the following items of work and provide the identified deliverables:

#### **1. Items of Work:**

- a. Provide technical assistance to departments during the facility design, furnishing and space planning phases.
- b. Provide generic, non-manufacturer specific designs, specifications, and CAD drawings, to be used for bid and quote solicitation purposes.
- c. Provide design and space planning consultation and review assistance during the bid/quotation process.
- d. Provide solutions for best utilization of space planning and design including workflow areas, public and employee access, etc.
- e. Provide recommendations for electrical, data and HVAC modifications and improvements.
- f. Provide cost estimates for interior design improvements and furnishings.

#### **2. Construction Document Services:**

- a. Prepare documents in such detail as may be required to obtain competitive bidding for the entire project or any division of work. Furnish the county at no expense one (1) complete set of the bid drawings and specifications. The bid drawings shall be on reproducible transparent vellum with the architect's/engineer's professional stamp and signature, and a recorded copy on a compact disc-recordable (CD-R). File format shall be compatible with MS-DOS and AutoCAD 14 software or newer (dwg. file format). The specifications shall be submitted as a reproducible hardcopy and a recorded copy on CD-R compatible with MS-DOS and Microsoft Word.

#### **3. Deliverables:**

- a. Work with individual departments to provide interior design services.
- b. Provide floor plan drawings, and CAD design drawings for use with county bidding process.
- c. Assist departments as needed with technical advice.
- d. Assist in bid review and evaluation if requested by department.

### **B. Owned Facilities**

- 1. The Director of the Architecture and Engineering Department (A&E) shall administer all contracts or architectural programming and space planning for facilities owned by the County or Board-Governed Special Districts (Districts).
- 2. All requests for an architectural program and/or space plan for facilities owned by the County or Districts must be initiated with and coordinated through A&E in order to define the scope of work for the required services; negotiate the terms and conditions of this contract; receive the completed

program and/or plan; review the program and/or plan for accuracy, comprehensiveness, and completeness; and ensure all requirements of this contract are fulfilled.

C. Leased Facilities

1. The Director of the Real Estate Services Department (RES D) shall administer all contracts for architectural programming and space planning for facilities leased or desired to be leased by the County or Districts.
2. All requests for an architectural program and/or space plan for facilities leased or desired to be leased by the County or Districts must be initialed with and coordinated through RES D in order to define the scope of work for the required services; negotiate the terms and conditions of this contract; receive the completed program and/or plan; review the program and/or plan for accuracy, comprehensiveness, and completeness; and ensure all requirements of this contract are fulfilled.

### **SUBCONTRACTORS**

There shall be no subcontracting or joint venture of any services, marketing, or other activities by VENDOR unless specifically approved in advance in writing by PURCHASING. VENDOR shall act as the single principal for all products and services in this contract.

### **NONEXCLUSIVE AGREEMENT**

This is not an exclusive agreement. The COUNTY reserves the right to enter into an Agreement with other vendors for the same or similar services. The COUNTY does not guarantee or represent that the VENDOR will be permitted to perform any amount of work, or receive compensation other than on a per order basis, under the terms of this Agreement.

### **GENERAL AGREEMENT TERMS**

#### Representation of the COUNTY

In the performance of the Agreement, VENDOR, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the COUNTY of San Bernardino.

#### Vendor Primary Contact

The VENDOR will designate an individual to serve as the primary point of contact for the Agreement. VENDOR or designee must respond to COUNTY inquiries within two- (2) business days. VENDOR shall not change the primary contact without written acknowledgement to the COUNTY.

#### Change of Address

VENDOR shall notify the COUNTY in writing, of any change in mailing address within ten (10) business days of the change.

#### Subcontracting

VENDOR agrees not to enter into any subcontracting agreements for work contemplated under the Agreement without first obtaining written approval from the COUNTY. Any subcontracting shall be subject to the same terms and conditions as VENDOR. VENDOR shall be fully responsible for the performance and payments of any subcontractor's contract.

#### Agreement Assignability

Without the prior written consent of the COUNTY, the agreement is not assignable by VENDOR either in whole or in part.

#### Agreement Amendments

VENDOR agrees any alterations, variations, modifications, or waivers of the provisions of the Agreement, shall be valid only when reduced to writing, executed and attached to the original Agreement and approved by the required persons.

#### Termination for Convenience

The COUNTY for its convenience may terminate in whole or in part as described in "Term of Agreement". If such termination is effected, an equitable adjustment in the price provided for in this Agreement shall be made. Such adjustment shall provide for payment to the VENDOR for services rendered and expenses incurred prior to the effective date of termination. Upon receipt of termination notice VENDOR shall promptly discontinue services unless the notice directs otherwise. VENDOR shall deliver promptly to COUNTY and transfer title (if necessary) all completed work, and work in progress, including drafts, documents, plans, forms, data, products, graphics, computer programs and reports.

#### Attorney Fees and Costs

If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorneys' fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorneys' fees directly arising from a third-party legal action against a party hereto and payable under INDEMNIFICATION.

#### Venue

The venue of any action or claim brought by any party to this Agreement will be the Central District Court of San Bernardino COUNTY. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning this Agreement is brought by any third-party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to San Bernardino COUNTY.

#### Jury Trial Waiver

VENDOR and COUNTY hereby waive their respective rights to trial, by jury for any cause of action, claim, counterclaim, or cross-complaint in any action, proceeding, and/or hearing brought by either VENDOR against COUNTY or COUNTY against VENDOR on any matter arising out of, or in any way connected with this Agreement, the relationship of VENDOR and COUNTY, or any claim of injury or damage, or the enforcement of any remedy under any law, statute, or regulation, emergency or otherwise, now or hereafter in effect.

#### Licenses and Permits

VENDOR shall ensure that it has all necessary licenses and permits required by the laws of Federal, State, COUNTY, and municipal laws, ordinances, rules and regulations. The VENDOR shall maintain these licenses and permits in effect for the duration of this Agreement. VENDOR will notify COUNTY immediately of loss or suspension of any such licenses and permits. Failure to maintain a required license or permit may result in immediate termination of this Agreement.

#### Labor Laws

VENDOR shall strictly adhere to the applicable provisions of the Labor Code regarding the employment of apprentices; minimum wages; travel and subsistence pay; retention and inspection of payroll records; workers compensation; payment of wages. The VENDOR shall forfeit to the COUNTY the penalties prescribed in the Labor Code for violations.

#### Notification Regarding Performance

In the event of a problem or potential problem that could impact the quality or quantity of work, services, or the level of performance under this Agreement, the VENDOR shall notify the COUNTY within one (1) working day, in writing and by telephone.

#### Conflict of Interest

VENDOR shall make all reasonable efforts to ensure that no COUNTY officer or employee, whose position in the COUNTY enables him/her to influence any award of this contract or any competing offer, shall have any direct or indirect financial interest resulting from the award of this contract or shall have any relationship to the VENDOR or officer or employee of the VENDOR.

#### Improper Consideration

VENDOR shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to, cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the COUNTY in an attempt to secure favorable treatment regarding this Agreement.

The COUNTY, by written notice, may immediately terminate any Agreement if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the COUNTY with respect to the proposal and award process. This prohibition shall apply to any amendment, extension or evaluation process once an Agreement has been awarded.

VENDOR shall immediately report any attempt by a COUNTY officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from VENDOR. The report shall be made to the supervisor or manager charged with supervision of the employee or to the COUNTY Administrative Office. In the event of a termination under this provision, the COUNTY is entitled to pursue any available legal remedies.

#### Employment of Former COUNTY Officials

VENDOR agrees to provide or has already provided information on former County of San Bernardino administrative officials (as defined below) who are employed by or represent VENDOR. The information provided includes a list of former COUNTY administrative officials who terminated COUNTY employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of vendor. For purposes of this provision, "county administrative official" is defined as a member of the Board of Supervisors or such officer's staff, County Administrative Officer or member of such officer's staff, county department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

#### Inaccuracies or Misrepresentations

If in the course of the RFP process or in the administration of a resulting Agreement, the COUNTY determines that VENDOR has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the COUNTY, the VENDOR may be terminated from the RFP process or in the event a Agreement has been awarded, the Agreement may be immediately terminated. In the event of a termination under this provision, the COUNTY is entitled to pursue any available legal remedies.

#### Recycled Paper Products

The COUNTY has adopted a recycled product purchasing standards policy (11-10), which requires contractors to use recycled paper for proposals and for any printed or photocopied material created as a

result of a contract with the COUNTY. The policy also requires Contractors to use both sides of paper sheets for reports submitted to the COUNTY whenever practicable

#### Artwork, Proofs and/or Negatives

All artwork, proofs and/or negatives in either print or digital format for this product are the property of the County of San Bernardino. These items must be returned to the County of San Bernardino within ten- (10) days, upon written notification to the VENDOR. In the event of a failure to return the documents, the COUNTY is entitled to pursue any available legal remedies. In addition, the VENDOR will be barred from all future solicitations, for a period of at least six (6) months.

#### Payment

Invoices are payable monthly unless otherwise agreed upon by department. Invoices must reflect both purchase order number and applicable proposal number to initiate payment.

#### Release of Information

No news releases, advertisements, public announcements or photographs arising out of this Agreement or Proposer's relationship with COUNTY may be made or used without prior written approval of the COUNTY.

#### Damage to COUNTY Property, Facilities, Buildings, or Grounds

The VENDOR shall repair, or cause to be repaired, at its own cost, all damage to COUNTY vehicles, facilities, buildings or grounds caused by the willful or negligent acts of VENDOR or employees or agents of the VENDOR. Such repairs shall be made immediately after VENDOR becomes aware of such damage, but in no event later than thirty (30) days after the occurrence.

If the VENDOR fails to make timely repairs, the COUNTY may make any necessary repairs. The VENDOR, as determined by the COUNTY, for such repairs shall repay all costs incurred by the COUNTY, by cash payment upon demand or COUNTY may deduct such costs from any amounts due to the VENDOR from the COUNTY.

#### Air, Water Pollution Control, Safety and Health

VENDOR shall comply with all air pollution control; water pollution, Safety and Health Ordinances and statutes, which apply to the work performed pursuant to this contract, including any requirements, specified in state government codes.

#### Drug and Alcohol-Free Workplace

In recognition of individual rights to work in a safe, healthful and productive work place; as a material condition of this agreement, the VENDOR agrees that the VENDOR and the VENDOR'S employees, while performing service for the COUNTY, on COUNTY property, or while using COUNTY equipment:

- Shall not be in any way impaired because of being under the influence of alcohol or a drug.
- Shall not possess an open container of alcohol or consume alcohol or possess or be under the influence of an illegal drug.
- Shall not sell, offer, or provide alcohol or a drug to another person.

This shall not be applicable to a VENDOR or VENDOR'S employee who, as part of the performance of normal job duties and responsibilities, prescribes or administers medically prescribed drugs.

The VENDOR shall inform all employees that are performing service for the COUNTY on COUNTY property, or using COUNTY equipment, of the COUNTY's objective of a safe, healthful and productive work place and the prohibition of drug or alcohol use or impairment from same while performing such service for the COUNTY.

The COUNTY may terminate for Default or Breach of this Agreement and any other Agreement the VENDOR has with the COUNTY, if the VENDOR or VENDOR'S employees are determined by the COUNTY not to be in compliance with above.

#### Notice of Delays

Except as otherwise provided herein, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this contract, that party shall, within twenty-four (24) hours, give notice thereof, including all relevant information with respect thereto, to the other party.

#### Record Retention and Revision

The VENDOR agrees that the COUNTY or any duly authorized representative shall have access to and the right to examine, audit, excerpt, copy or transcribe any pertinent transaction, activity, time cards or other records relating to this contract as is authorized by law. Records will be retained for at least the length of time specified by law.

#### Validity

The invalidity in whole or in part of any provision of a resulting agreement shall not void or affect the validity of any other provision.

#### Waiver

No waiver of a breach of any provision of a resulting agreement by the COUNTY shall constitute a waiver of any other breach or of such provision. Failure of the COUNTY to enforce at any time or from time to time any provision of this agreement shall not be construed as a waiver thereof. The remedies herein reserved to the COUNTY shall be cumulative and additional to any other remedies in law or in equity.

#### Default for Insolvency

The COUNTY may immediately cancel a resulting agreement for default in the event of the occurrence of any of the following:

- Insolvency of the VENDOR. The VENDOR shall be deemed to be insolvent if it has ceased to pay its debts in the ordinary course of business or cannot pay its debts as they become due, whether he/she has committed an act of bankruptcy or not, and whether insolvent within the meaning of the Federal Bankruptcy Law or not;
- The filing of a voluntary petition to have the VENDOR declared bankrupt;
- The appointment of a Receiver or Trustee for the VENDOR; or
- The execution by the VENDOR of an assignment for the benefit of its creditors.

The rights and remedies of the COUNTY provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

### **INDEMNIFICATION AND INSURANCE REQUIREMENTS**

#### **1. Indemnification**

The VENDOR agrees to indemnify, defend and hold harmless the COUNTY and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages and/or liability arising from VENDOR'S negligent acts, errors or omissions and for any costs or expenses incurred by the COUNTY on account of any claim therefore, except where such indemnification is prohibited by law.

#### **2. Insurance Coverage**

Without in any way affecting the indemnity herein provided and in addition thereto, the VENDOR shall secure and maintain throughout the Agreement the following types of insurance with limits as shown:

a) Workers' Compensation - A program of Workers' Compensation insurance or a State-approved Self-Insurance Program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits, covering all persons providing services on behalf of the VENDOR and all risks to such persons under this Agreement.

If VENDOR has no employees, it may certify or warrant to COUNTY that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by the County's Risk Manager.

With respect to VENDORS that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance. If the County's Risk Manager determines that there is no reasonably priced coverage for volunteers, evidence of participation in a volunteer insurance program may be substituted.

b) Comprehensive General and Automobile Liability Insurance - This coverage to include contractual coverage and automobile liability coverage for owned, hired and non-owned vehicles. The policy shall have combined single limits for bodily injury and property damage of not less than one million dollars (\$1,000,000).

c) Errors and Omissions Liability Insurance – Combined single limits of \$1,000,000 for bodily injury and property damage and \$3,000,000 in the aggregate or

d) Professional Liability – Professional liability insurance with limits of at least \$1,000,000 per claim or occurrence.

**3. Additional Named Insured**

All policies, except for the Workers' Compensation, Errors and Omissions and Professional Liability policies shall contain additional endorsements naming the COUNTY and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of the performance of services hereunder.

**4. Waiver of Subrogation Rights**

The VENDOR shall require the carriers of the above-required coverage's to waive all rights of subrogation against the COUNTY, its officers, employees, agents, volunteers, vendors, and subcontractor.

**5. Policies Primary and Non-Contributory**

All policies required above are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the COUNTY.

**6. Proof of Coverage**

The VENDOR shall immediately furnish certificates of insurance to the COUNTY Department administering the Agreement evidencing the insurance coverage, including the endorsements above required, prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department. VENDOR shall maintain such insurance from the time VENDOR commences performance of services hereunder until the completion of such services. Within sixty- (60) days of



the commencement of this Agreement, the VENDOR shall furnish certified copies of the policies and all endorsements.

## **7. Insurance Review**

The above insurance requirements are subject to periodic review by the COUNTY. The County's Risk Manager is authorized, but not required, to reduce or waive any of the above insurance requirements whenever the Risk Manager determines that any of the above insurance is not available, is unreasonably priced, or is not needed to protect the interests of the COUNTY. In addition, if the Risk Manager determines that heretofore, unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Risk Manager is authorized but not required, to change the above insurance requirements, to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the COUNTY, inflation, or any other item reasonably related to the County's risk.

Any such reduction or waiver for the entire term of the Agreement and any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. VENDOR agrees to execute any such amendment within thirty (30) days of receipt.

## **RIGHT TO MONITOR AND AUDIT**

### **Right to Monitor**

The COUNTY shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have absolute right to monitor the performance of VENDOR in the delivery of services provided under this Agreement. Full cooperation shall be given by VENDOR in any auditing or monitoring conducted.

VENDOR shall cooperate with COUNTY in the implementation, monitoring and evaluation of this agreement and comply with any and all reporting requirements established by COUNTY.

## **DISPUTES**

Disputes concerning the performance of this Agreement, which cannot be resolved by the designated contract representatives, shall be presented in writing to COUNTY's Purchasing Agent who shall submit his/her decision in writing to both parties involved in the dispute. If VENDOR is unwilling to accept the decision rendered through such procedure or a decision is not made within fourteen (14) working days, it may then pursue its normal legal remedies. Pending conclusion of any disagreement, the interpretation placed upon this Agreement by COUNTY will govern operation thereunder and VENDOR will continue to perform under this Agreement.

## **CHOICE OF LAW**

This Agreement must be construed and its performance enforced under California law.

## **INTEGRATION**

This Agreement including any exhibits or attachments constitutes the parties' entire agreement on this subject. There are no written or oral representations or understandings that are not expressed in this Agreement.

**Any and all terms and conditions contained in this Agreement shall supercede any conflicting terms and conditions contained in any documents, Purchase Orders, Bills of Lading or similar documents.**

COUNTY OF SAN BERNARDINO

Westgroup Designs  
*(Print or type name of corporation, company, contractor, etc.)*

► \_\_\_\_\_  
Dennis Hansberger, Chairman, Board of Supervisors  
*(Authorized signature - sign in blue ink)*

By ► \_\_\_\_\_

Dated: \_\_\_\_\_

Parisima Hassani  
Name \_\_\_\_\_  
*(Print or type name of person signing contract)*

SIGNED AND CERTIFIED THAT A COPY OF THIS  
DOCUMENT HAS BEEN DELIVERED TO THE  
CHAIRMAN OF THE BOARD

Clerk of the Board of Supervisors  
of the County of San Bernardino.

Title President  
*(Print or Type)*

Dated: \_\_\_\_\_

By \_\_\_\_\_  
*Deputy*

Address 1350 Reynolds Ave., Suite 101  
Irvine, CA 92614

Approved as to Legal Form	Reviewed by Contract Compliance	Presented to BOS for Signature
► _____ County Counsel	► _____	► _____ Department Head
Date _____	Date _____	Date _____